

Message Text

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TAGS: EFIS, EINV, BDIS, EGEN, PFOR, PE

SUBJECT: STAR-KIST PROBLEM: GOP INITIATES ACTION TO RECOVER
74 MILLION SOLES FROM PERUVIAN JOINT VENTURE

REF: 74 LIMA 2210, 74 LIMA 2123, GANTZ-GLIGO MEMCON,
JAN. 26, 1976

1. IN NEW TWIST ON OUTSTANDING EXPROPRIATION PROBLEM, GOP HAS AUTHORIZED CONTROLLER GENERAL TO BEGIN LEGAL PROCESS TO RECOVER 74,103,868 SOLES (APPROXIMATELY \$1.65 MILLION) WHICH GOP CLAIMS IS DUE IT FROM TRANSFER OF ASSETS FROM PESCA-PERU TO STAR-KIST OVERSEAS, INC. IN NOVEMBER 1973. IN RESOLUTION ISSUED MAY 14, 1976, BY CONTROLLER GENERAL AND PUBLISHED IN OFFICIAL GAZETTE "EL PERUANO," GOP STATES (A) THAT FOLLOWING NATIONALIZATION OF FISHMEAL INDUSTRY (MAY 1973), THOSE ASSETS OF STAR-KIST'S PERUVIAN SUBSIDIARY, COISHCO, WHICH WERE NOT DEDICATED TO FISHMEAL PRODUCTION (I.E., WERE FOR HUMAN CONSUMPTION) WERE TURNED OVER (ENTREGADOS) TO STAR-KIST OVERSEAS FOR USE AND EXPLOITATION; (B) THAT THE VALUE OF THESE ASSETS WAS TO BE DEDUCTED FROM THE TOTAL COMPENSATION PAYMENT FOR THE PROPERTIES EXPROPRIATED FROM COISHCO; (C) THAT THIS DEDUCTION HAD NOT OCCURRED; (D) THAT THE ASSETS TRANSFERRED TO STAR-KIST OVERSEAS HAD REMAINED PROPERTY OF THE PERUVIAN STATE AT THE TIME OF THEIR TRANSFER; AND (E) THAT CONSEQUENTLY THE GOP WAS ENTITLED TO PAYMENT OF 74,103,868 SOLES FOR THOSE

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ASSETS.

2. WHILE THE RESOLUTION DOES NOT EXPLICITLY NAME TARGET OF CONTROLLER GENERAL'S POSSIBLE ACTION, WE PRESUME STAR-KIST OVERSEAS AND/OR ITS JOINT VENTURE ENTERPRISE "COMPANIA PESQUERA ESTRELLA DEL PERU, S.A." (COPE) WILL BE NAMED IN ANY ENSUING SUIT. IN ANTICIPATION OF THIS ACTION, STAR-KIST'S REPRESENTATIVE ON BOARD OF DIRECTORS OF COPE, LELAND LINK, CALLED ON EMBOFFS MAY 17. LINK COULD OFFER NO EXPLANATION FOR GOP'S ACTION. HE STATED THAT IT WAS HIS UNDERSTANDING THAT HUMAN CONSUMPTION ASSETS WERE NOT COVERED UNDER GREENE AGREEMENT AND THUS COMPENSATION PAYMENT MADE TO STAR-KIST FOLLOWING AGREEMENT DID NOT INCLUDE PAYMENT FOR ASSETS IN QUESTION. HE LATER ADVISED EMBOFF THAT STAR-KIST HAD OBTAINED SERVICES OF LOCAL LAWYER IN PREPARATION FOR GOP CHARGES AGAINST COPE.

3. EMBASSY RECORDS ON THIS CASE SUGGEST THAT LINK IS PROBABLY CORRECT IN HIS UNDERSTANDING THAT ASSETS IN QUESTION AND CORRESPONDING COMPENSATION WERE NOT PART OF GREENE AGREEMENT (THOUGH OF COURSE DEPARTMENT MAY HAVE INFORMATION TO THE CONTRARY). WE FURTHER ASSUME THAT COMPENSATION PAYMENT REFERRED TO IN CONTROLLER GENERAL'S RESOLUTION (GREENE AGREEMENT IS NOT EXPLICITLY MENTIONED) WAS NOT INTENDED TO COVER THESE ASSETS. IF THIS IS THE CASE, THEN CONTROLLER GENERAL'S POSITION WOULD NOT APPEAR TO HAVE SOLID BASIS, AND EMBASSY REPRESENTATIONS (AS SUGGESTED BY LINK) MAY BE IN ORDER.

4. ACTION REQUESTED: PER GANTZ-SMITH TELECON MAY 17, WE WOULD APPRECIATE OPINION FROM L/ARA AS TO STATUS OF CONSUMO HUMANO ASSETS FOLLOWING GREENE AGREEMENT AND WHETHER GOP CLAIM TO COMPENSATION FOR NON-FISHMEAL RELATED ASSETS TRANSFERRED TO STAR-KIST HAS ANY FOUNDATION. WE WOULD ALSO APPRECIATE INSTRUCTIONS RESPECTING POSSIBLE REPRESENTATIONS TO GOP REGARDING THIS PROBLEM.
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